recording shall be responsible for arranging the appearance of, and payment to, the stenographer. A copy of any transcript shall be provided to the board or district commission without cost; other parties wishing a copy shall reimburse the requesting party on a pro rata basis. Disputes over sharing of costs shall be resolved by the board or district commission.

(F) Completion of deliberations. A hearing shall not be closed until a district commission or the board has provided an opportunity for all parties under the relevant criteria to respond to the last permit or evidence submitted. Once a hearing has been closed, a commission or the board shall conclude deliberations as soon as is reasonably practicable. A decision of a commission or the board shall be issued within 20 days of the completion of deliberations. (Amended, effective 1995.) **See 10 V.S.A. § 6085(f).**

Rule 19. Compliance with Other Laws - Presumptions

(A) Alternative procedures. In the event that a subdivision or development is also subject to standards of or requires one or more permits from another state agency, the applicant may elect to follow any one or any combination of the following procedures:

(1) Obtain other permits or certifications before filing the Act 250 application (See (B) below); or

(2) File the Act 250 application prior to, or together with other applications, but with an intention to use other permits or certifications to establish presumptions of compliance with substantive criteria of the Act (See (C) below); or

(3) With the approval of the district commission, an Act 250

application may be filed first, with an intention to satisfy certain substantive criteria of the Act with independent evidence of compliance (See (D) below).

In addition, an applicant may file an application for partial findings under the appropriate criteria in accordance with Rule 21. (Amended, effective January 2, 1996.)

(B) Permits accompanying application. If the applicant obtains applicable permits or certifications listed in section (E) of this rule prior to filing an Act 250 application, he or she shall attach copies of such permits or certifications to the application. Such permits and certifications, when entered in the record pursuant to Rule 17(B), will create presumptions of compliance with the applicable criteria of the Act in the manner set out in section (F) of this rule.

(C) Permits obtained after application. If an applicant states an intention to use applicable permits or certifications not yet issued to raise presumptions under this rule, the board or district commission may, at its discretion, defer issuing a land use permit until the necessary permits or certifications are issued, and may recess the hearing until they are submitted by the applicant. The applicant must submit copies of each permit or certification relied upon to the district commission or board. The district commission or board will, within five days, forward copies of each permit or certification to each party who has requested an opportunity to review it, together with a notice of the party's right to request a reconvened hearing. (Amended, effective January 2, 1996.)

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The district commission or board may reconvene the hearing on its own motion, or upon the request of a party intending to rebut the presumption or claiming that there has been a substantial change in circumstances pertaining to the application. Any request by a party to reconvene must be filed within 10 days of the date of mailing of the permit or certification and notice. If no such request is received, the hearing will be considered closed on the relevant criteria. If a request is received and the hearing is reconvened, evidence will be taken in the manner set out in section (F) of this rule.

(D) No reliance on permits. With district commission approval, an applicant may seek to satisfy the burden of proof under applicable criteria of the Act without submitting permits or certifications from other state agencies by offering affirmative evidence through testimony, exhibits and other relevant material upon which the district commission or board can make findings of fact and conclusions of law. However, if any of the permits or certifications identified in section (E) of this Rule must be obtained prior to construction or use of the project, or portion thereof, the district commission or board may, on its own motion or on motion by a party, defer taking evidence until the necessary permits or certifications are issued and may recess the hearing until they are submitted by the applicant If action is deferred, the provisions of section (C) of this rule shall apply.

(E) Permits creating presumptions. In the event a subdivision or development is also subject to standards of or requires one or

more permits from another state agency, such permits or certifications of compliance, when entered in the record pursuant to Rule 17(B), will create the following presumptions:

(1) That waste materials and wastewater can be disposed of through installation of wastewater and waste collection, treatment and disposal systems without resulting in undue water pollution: (Amended, effective May 4, 1990.)

(a) A subdivision permit - Agency of Natural Resources, under 18 V.S.A. Chapter 23 and rules adopted thereunder. (Amended, effective May 4, 1990.)

(b) A water supply and wastewater disposal permit (even if limited to exterior sewer approval only) - Agency of Natural Resources under 10 V.S.A. Chapter 61 and rules adopted thereunder. (Amended, effective May 4, 1990.)

(c) A mobile home park permit - Agency of Natural Resources, under 10 V.S.A. Chapter 153 and rules adopted thereunder. (Amended, effective May 4, 1990.)

(d) A campground permit - Agency of Natural Resources, under 3 V.S.A. § 2873(c) and rules adopted thereunder. (Amended, effective May 4, 1990.)

(e) A discharge permit for a discharge or for a wastewater treatment facility owned or controlled by the applicant and to be used by the project - Agency of Natural Resources, under 10 V.S.A. Chapter 47 and rules adopted thereunder. (Amended, effective May 4, 1990.)

(f) A certification of compliance that the project's use of a sewage treatment facility not owned or controlled by the

applicant complies with the permit issued for that facility by the Agency of Natural Resources, under 10 V.S.A. Chapter 47 and rules adopted thereunder. (Amended, effective May 4, 1990.)

(g) A sewer lines extension permit - Agency of Natural Resources, under 10 V.S.A. Chapter 47 and rules adopted thereunder. (Added, effective January 2, 1996.)

(h) An underground injection permit for the discharge of non-sanitary waste into an injection well - Agency of Natural Resources, under 10 V.S.A. Chapter 47 and rules adopted thereunder. (Added, effective January 2, 1996.)

(i) A solid waste or hazardous waste certification - Agency of Natural Resources, under 10 V.S.A. Chapter 159 and rules adopted thereunder. (Amended, effective May 4, 1990 and January 2, 1996.)

(j) An underground storage tank permit with regard solely to the substance to be stored in the underground storage tank - Agency of Natural Resources under 10 V.S.A. Chapter 59 and r s adopted thereunder. (Added, effective January 2, 1996.)

(2) That no undue air pollution will result:

(a) Air Pollution Control Permit - Agency of Natural Resources, under 10 V.S.A. § 556 and rules adopted thereunder. (Amended, effective May 4, 1990 and January 2, 1996.)

(3) That a sufficient supply of potable water is available:

(a) Public utility permit - Public Service Board under 30 V.S.A. §§ 203 and 219.

: Municipal permit - Local water authority.

(c) Subdivision permit - Agency of Natural Resources, under 18 V.S.A. Chapter 23 and rules adopted thereunder. (Amended, effective May 4, 1990.)

(d) Water supply and wastewater disposal permit (even if limited to exterior water approval only) - Agency of Natural Resources under 10 V.S.A. Chapter 61 and rules adopted thereunder. (Amended, effective May 4, 1990.)

(e) Mobile home park permit - Agency of Natural Resources, under 10 V.S.A. Chapter 153 and rules adopted thereunder. (Amended, effective May 4, 1990.)

(f) Campground permit - Agency of Natural Resources, under 3 V.S.A. Chapter 51 and rules adopted thereunder. (Amended, effective May 4, 1990.)

(g) A public water system construction permit - Agency of Natural Resources, under 10 V.S.A. Chapters 48, 56, and 61; 18 V.S.A. § 1218, and rules adopted thereunder. (Amended, effective January 2, 1996.)

(h) A public water system operating permit - Agency of Natural Resources, under 10 V.S.A. Chapters 48, 56, and 61; 18 V.S.A. § 1218, and rules adopted thereunder. (Added, effective January 2, 1996.)

(4) That the application of pesticides will not result in undue water or air pollution and will not cause an unreasonable burden on an existing water supply:

(a) Permit for the application of herbicides to maintain and clear rights-of-way - Department of Agriculture,

under 6 V.S.A. Chapter 87 and rules adopted thereunder.

(5) That the development or subdivision will not violate the rules of the water resources board relating to significant wetlands:

(a) A conditional use determination with respect to uses in class one or class two wetlands or their buffer zones - Agency of Natural Resources under 10 V.S.A. Chapter 37, and rules adopted thereunder. (Added, effective January 2, 1996.)

(F) Effect of presumptions. A permit or certification filed under this rule shall create a rebuttable presumption that the portion of the development or subdivision subject to the permit or certification is not detrimental to the public health and welfare with respect to the criteria specified in these rules. However, the district commission or board may on its own motion question the applicant, the issuing agency or other witnesses concerning the permit or certification, and any party may challenge the presumption. If a party challenges the presumption, it shall state the reasons therefor and offer evidence at a hearing to support its challenge. If the commission or board concludes, following the completion of its own inquiry or the presentation of the challenging party's witnesses and exhibits, that a preponderance of the evidence shows that undue water pollution, undue air pollution, inadequate water supply, unreasonable burden on an existing water supply, or violation of the rules of the water resources board relating to significant wetlands is likely to result, then the commission or

board shall rule that the presumption has been rebutted. Technical non-compliance with the applicable health, water resources and Agency of Natural Resources' rules shall be insufficient to rebut the presumption without a showing that the non-compliance will result in, or substantially increases the risk of, undue water pollution, undue air pollution, inadequate water supply, unreasonable burden on an existing water supply, or violation of the rules of the water resources board relating to significant wetlands. Upon the rebuttal of the presumption, the applicant shall have the burden of proof under the relevant criteria and the permit or certification shall serve only as evidence of compliance.

(G) Changes requiring amendment. In the event a permit or certification issued after the filing of an Act 250 application imposes restrictions or conditions which substantially change the character or impacts of the proposed subdivision or development,the applicant shall amend the application to reflect such changes with due notice to all parties. The district commission or board may, on its own motion or on motion of any party, reconvene a hearing to consider evidence which is relevant to such changes.

(H) As used in this rule, the terms "permit" and "certification" shall refer to any written document issued by the appropriate state agency attesting to a project's compliance with the regulations or statutes listed in section (E) of this rule. With respect to approvals identified in section (E)(1) of this rule, a commission or the board may accept a "site and foundation

approval" as establishing presumption if it determines that said approval is based upon an evaluation by the Agency of Natural Resources of site characteristics and a specific waste disposal system plan. (Amended, effective May 4, 1990.)

(I) Municipal presumptions. The board and the district commissions shall accept determinations issued by a development review board under the provisions of § 4449 of Title 24 with respect to municipal impacts under criteria 6, educational services; 7, municipal services; and 10, conformance with the municipal plan (10 V.S.A. § 6086(a)). These decisions must include findings of fact and conclusions of law demonstrating compliance or non-compliance with the relevant criteria of Act 250. Such determinations of a development review board, either positive or negative, under the provisions of § 4449 of Title 24, shall create a rebuttable presumption only to the extent that the impacts under the criteria are limited to the municipality issuing the decision. A development review board decision involving local Act 250 review of municipal impacts must include a notice that it constitutes a rebuttable presumption under the relevant criteria and that the presumption may be challenged in proceedings under 10 V.S.A. chapter 151. (Added, effective January 2, 1996.) **See 10 V.S.A. § 6086(d).**

Rule 20. Information Required

(A) Supplementary information. The board or district commission may require any applicant to submit relevant supplementary

data for use in resolving issues raised in a proceeding, and in determining whether or not to issue a permit. When necessary to an adequate evaluation of an application under the criteria set forth in 10 V.S.A. § 6086(a)(1) through (a)(10), the district commission or board may require supplementary data concerning the current or projected use of property owned by the applicant or others adjoining the project site.

(B) Investigation.

(1) The board or district commission may conduct such investigations, examinations, tests and site evaluations as it deems necessary to verify information contained in the application or otherwise presented in a proceeding.

(2) The board or district commission may make reasonable inquiry as it finds necessary to make findings and conclusions as required; in this event the board or district commission may recess the proceedings or require such investigations, tests, certifications, witnesses, or other assistance as it deems necessary to evaluate the effects of the project under the criteria in question or any other issues before it. (Amended, effective January 2, 1996.)

Rule 21. Order of Evidence - Partial Review

(A) To avoid unnecessary or unreasonable costs, an applicant, upon notice and approval of a district commission or the board and upon filing an application or an appeal to the board, may offer evidence in support of or have the project

reviewed under any of the criteria or sub-criteria under the Act in any sequence approved by the district commission or the board. However, such procedure shall not be permitted by the board or a district commission if it works a substantial hardship or inequity upon other parties to the proceedings, will unduly delay final action on the application, or make comprehensive review of an application under applicable criteria impractical or unduly difficult. An applicant seeking to use this procedure shall notify the board or district commission and all parties entitled to receive notice, of his or her petition and the sequence and timing under which he or she intends to offer evidence or submit the project for review under specified criteria or sub-criteria.

(B) A district commission or the board, on its own motion, may consider whether to review any of the criteria or sub-criteria before proceeding to the review of the remaining criteria. (Added, effective January 2, 1996.)

(C) In any proceeding under sections (A) or (B) of this rule, the district commission or the board, shall, within 20 days of the completion of deliberations on the criteria that are the subject of the proceeding, either issue its findings and decision thereon, or proceed to a consideration of the remaining criteria. The decision to issue a decision or proceed to the remaining criteria shall be in the sole discretion of the district commission or board. If the district commission first issues a partial decision under this rule, the applicant or a party may appeal that decision within 30 days under § 6089 of Title 10 and

Rule 40 of these rules, or may appeal after the final decision on the complete application. (Amended, effective January 2, 1996.)

(D) If the district commission or the board decides to issue a partial decision and insofar as the applicant sustains his or her burden of proof or a party opposing the application fails to sustain its burden of proof as provided for in the Act under the applicable criteria, the board or district commission shall make affirmative findings of fact and conclusions of law including any conditions or limitations relevant thereto to be imposed by the district commission or board. If the district commission or board is unable to make such findings by reasons of inadequate evidence or information, it shall inform the applicant and all parties. Such affirmative findings, conclusions of law and any conditions or limitations shall remain in effect, pending issuance or denial of a permit under the Act, for a reasonable and proper term as determined by the district commission or board. For the purposes of this section, any findings of fact or conclusions of law made by a district commission based upon the criteria of § 6086(a) shall be a final decision and subject to appeal to the board as provided for under the law; provided, however, the applicant, and any other party may elect to reserve an appeal from findings and conclusions under these criteria until after final action on the application has been made by the district commission. (Amended, effective January 2, 1996.)

See 10 V.S.A. § 6086(b).

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The findings of fact and conclusions of law made under the terms of this section shall be binding upon all parties during the period specified by the district commission or board unless it is clearly shown that there was misrepresentation or fraud or that the facts relevant to the matter have so materially changed as to render the findings or conclusions clearly erroneous, contrary to the purposes of the Act and without basis in fact.

(E) A permit shall not be granted under this rule until the applicant has fully complied with all criteria and all affirmative findings have been made by the district commission or board as required by the Act. If a master plan has been presented and reviewed for an industrial park or other large project, the district commission or the board may issue a master permit to the extent that the district commission or the board has made affirmative findings and has imposed conditions as required by 10 V.S.A. Chapter 151. Subsequent phases may be reviewed and approved as amendments to the master permit in accordance with board rules and statutory provisions. (Amended, effective May 4, 1990 and January 2, 1996.)

(F) The procedures authorized under this section are intended to minimize costs and inconvenience to applicants and shall be applied liberally by the board or district commission for that purpose consistent with the right of other parties and the requirements of law and any pertinent regulations. (Amended, effective July 15, 1974 and February 1, 1978).

ARTICLE III. LAND USE PERMITS

Rule 30. Approval or Denial of Applications

The board or district commission shall, within 20 days of the completion of deliberations on an application, issue a decision approving, conditionally approving, or denying the application. The date of completion for deliberations shall be governed by Rule 18(F) of these rules. The decision on the application shall contain findings of fact and conclusions of law specifying the reasons for the decisions reached on all issues for which sufficient evidence was offered. If the application is approved, the decision shall also contain a land use permit in the name of the applicant, enabling the applicant to proceed with the development or subdivision in accordance with any stated terms and conditions. (Amended, effective May 4, 1990 and January 2, 1996.)

Rule 31. Reconsideration of Decisions

(A) Motions to alter decisions. A party may file within 30 days from the date of a decision of the board or district commission one and only one motion to alter with respect to the decision. However, no party may file a motion to alter a decision concerning or resulting from a motion to alter. (Amended, effective May 4, 1990 and January 2, 1996.)

(1) All requested alterations must be based on a proposed reconsideration of the existing record. New arguments are not allowed, with the exception of arguments in response to permit

conditions or allegedly improper use of procedures, provided that the party seeking the alteration reasonably could not have known of the conditions or procedures prior to decision. New evidence may not be submitted unless the board or district commission, acting on a motion to alter, determines that it will accept new evidence. (Added, effective January 2, 1996.)

(2) A motion to alter should number each requested alteration separately. The motion may be accompanied by a supporting memorandum of law which contains numbered sections corresponding to the motion. The supporting memorandum should state why each requested alteration is appropriate and the location in the existing record of the supporting evidence. Any reply memorandum of law should also contain numbered sections corresponding to the motion. Additional requirements concerning motions and memoranda are set out in Rule 12 of these rules. (Added, effective January 2, 1996.)

(3) The board or district commission shall act upon motions to alter promptly. The running of any applicable time in which to appeal to the board or supreme court shall be terminated by a timely motion filed under this rule. The full time for appeal shall commence to run and is to be computed from issuance of a decision on said motion. It is entirely within the discretion of the board or district commission whether or not to hold a hearing on any motion. (Amended, effective May 4, 1990)

(4) The board or district commission may on its own motion, within 30 days from the date of a decision, issue an altered

decision or permit. Alterations by board or district commission motion shall be limited to instances of manifest error, mistakes, and typographical errors and omissions. (Added, effective May 4, 1990.)

(B) Application for reconsideration of permit denial.

(1) Procedure. An applicant for a permit which has been denied by the board or district commission may, within six months of the date of that decision, apply to the district commission for reconsideration of the application.

The applicant for reconsideration shall certify by affidavit in the application that notice and copies of the application have been forwarded to all parties of record, and that the deficiencies in the application which were the basis of the permit denial have been corrected. The district commission shall hold a new hearing upon 25 days notice to the parties. The hearing shall be held within 40 days of receipt of the request for reconsideration which has been deemed complete. (Amended, effective May 4, 1990 and January 2, 1996.)

(2) Scope of review. The district commission may, but need not necessarily, limit its scope of review to those aspects of the project or application which have been modified to correct deficiencies noted in the prior permit decision. The findings of the board or district commission in the original permit proceeding shall be entitled to a presumption of validity in the reconsideration proceeding, insofar as those findings are not affected by proposed modifications in the project. However,

those presumptions may be rebutted by the district commission or by any party upon a showing that the circumstances of the application have changed, or upon a review of evidence not previously presented.

Rule 32. Duration and Conditions of Permits

(A) Permit conditions. The board or district commission may attach such conditions to permits as are appropriate to ensure that the development is completed as approved. This may include the posting of a bond or the establishment of an escrow account requiring the board or district commission to certify that permit conditions have been complied with prior to release of the bond or discharge of the escrow account in part or in whole. Permittees, and their successors and assigns shall comply with all terms and conditions stated in land use permits.

All conditions relating to a permit shall be clearly and specifically stated in the permit. Conditions may pertain to improvement of land and to proper operation and maintenance of any facility during the terms of the permit relating to a development subdivision.

The board or a district commission may, as it finds necessary and appropriate, require a permittee to file affidavits of compliance with respect to specific conditions of a permit at reasonable intervals. Failure to submit such affidavits shall be cause for revocation of the permit by the board.

When construction of a project will be pursued in stages

involving more than one construction season, a commission or the board may require a permittee to file an annual certificate stating what portion of an approved project has been completed to date.

(B) Duration of permits. Permits issued under the Act shall be for land development or subdivision and the resulting land use. All permits shall run with the land. Permits for extraction of mineral resources, solid waste disposal facilities, and logging above the elevation of 2500 feet shall contain specific dates for completion of the project and for expiration of the land use permit. Permits issued for all other developments and subdivisions shall contain dates for completion of the project but shall not contain a date for expiration of the permit. Effective June 30, 1994, permits issued for all other developments and subdivisions shall be for an indefinite term, as long as there is substantial compliance with each condition of the permit. Expiration dates contained in permits (involving developments and subdivisions that are not for extraction of mineral resources, operation of solid waste disposal facilities and logging above the elevation of 2500 feet) are extended for an indefinite term, as long as there is substantial compliance with each condition of the permit. (Amended, effective January 2, 1996.) **See 10 V.S.A. § 6090(b)(1) and (2).**

(1) Project completion date. In determining the dates for phased or full completion of construction or subdivision, the board or district commission shall consider the impacts of

project development under the criteria of the Act, and shall give due regard to the economic considerations attending the proposed development or subdivision (such as the type and terms of financing, and the cost of development or subdivision) and the period of time over which the development or subdivision will take place. If a project, or portion of a project, is not completed by the specified date, such project or portion may be reviewed for compliance with 10 V.S.A. § 6086. In any such review, due consideration shall be given to fairness to the parties involved, competing land use demands for available infrastructure, and cumulative impacts on the resources involved. If completion has been delayed by litigation, proceedings to secure other permits, proceedings to secure title through foreclosure, or because of market conditions, the district commission or the board shall provide that the completion dates be extended for a reasonable period of time during which construction can be completed. (Amended, effective January 2, 1996.) **See 10 V.S.A. § 6090(b)(1).**

(2) Permit expiration date. When an expiration date is to be issued, the duration of a permit shall be for a specified period designated as a reasonable projection of time during the land will remain suitable for the use as contemplated in the application and shall at a minimum extend through that time period over which the permit holder or successors in interest will be responsible and accountable for compliance with time-specific permit conditions, including proper and timely

completion of the project. During its term, a permit shall run with the land. (Amended, effective January 2, 1996.)

Rule 33 - Recording of Permits

(A) Recorded permits. Permits shall be recorded at the expense of the applicant in the land records of any municipality in which a development or subdivision is to be located unless the board or a district commission determines in specific instances that such action is not warranted. Any official action of the board or a district commission modifying the terms or conditions of a recorded permit shall also be recorded. The State of Vermont shall be shown as grantee and the original permittee and landowner as grantor. A commission or the board may retain a permit after issuance in order to assure payment of recording expenses or payment of fees under Rule 11. (Amended, effective January 2, 1996.)

(B) Unrecorded permits. The recording of permits is intended to assist purchasers and investors in property by providing actual notice of the terms and conditions of existing land use and development permits. The board and district commissions will, to the extent that it is feasible, contact holders of presently unrecorded permits and seek to have them recorded by voluntary agreement. In addition, any unrecorded permit shall be recorded upon issuance of any amendment, including an amendment required to renew an expired permit or transfer an unrecorded permit to a new permit holder.

(C) Permit transfers.

(1) A purchasing landowner will assume the rights and obligations of a recorded permit without the necessity of an amendment transferring the permit. The board or district commission may, however, by explicit permit condition make an exception to this rule upon a finding that the identity of a permit holder is a critical factor in the satisfaction of the terms and conditions of the permit.

(2) No transfer of an unrecorded development permit shall be effective unless authorized by the board or district commission through an amendment to the permit; rights to an unrecorded subdivision permit may be conveyed or transferred, as authorized in the permit, however, persons acquiring such rights are required to comply with the permit.

(3) Notwithstanding the provisions of paragraphs (C)(1) and (2), above, all permits shall run with the land, and shall be enforceable against the permit holder and all successors in interest, whether or not the permit has been recorded in the land records.

Rule 34. Permit Amendments

(A) Amendments required. An amendment shall be required for any material or substantial change in a permitted project, or any administrative change in the terms and conditions of a land use permit. Applications for amendments shall be on forms provided by the board, and shall be filed with the district commission

having jurisdiction over the project. Upon request, the district coordinator will expeditiously review a proposed change and determine whether it would constitute a substantial change to the project, or whether it involves only material or administrative changes that may be subject to simplified review procedures.

Continuing jurisdiction over all development and subdivision permits is vested in the district commissions unless the board, in acting on an appeal, has specifically reserved the right to maintain jurisdiction over a development or subdivision in part or in its entirety.

(B) Substantial changes to a permitted project or permit. If a proposed amendment involves substantial changes to a permitted project or permit, it shall be considered as a new application subject to the application, notice and hearing provisions of §§ 6083, 6084 and 6085 and the related provisions of these Rules.

(C) Material changes to a permitted project or permit. If, in the judgment of the district coordinator, a proposed amendment involves material, but not substantial changes to a permitted project or permit, it shall be subject to the following simplified review procedures:

(1) Applications. Minor amendment applications shall conform to the requirements of Rule 10, sections (A) through (D). The applicant shall file with the appropriate district commission an original and five copies of the application, along with the fee prescribed by Rule 11.

(2) Review procedures. Applications processed under this section shall be subject to the distribution, posting and publication requirements of 10 V.S.A. Section 6084 and sections (E) through (G) of Rule 10. Such applications shall be processed in the same manner as minor applications under Rule 51(B). (Amended, effective January 2, 1996.)

(3) Consent agreements. The applicant may further expedite these procedures by submitting to the district commission a written consent agreement, signed by all persons entitled to receive the Proposed Material Amendment, consenting to approval of the proposed change, either conditionally or without conditions. For this purpose, the consent of the State Interagency Act 250 Review Committee shall signify approval by all state agencies which were not otherwise parties to the underlying permit. If the district commission finds that a consent agreement satisfies the criteria of the Act, it may approve the proposal and issue the amendment without further proceedings.

(4) Effective date. If no hearing is requested or ordered on a material change, the proposed amendment will become effective when all necessary certifications or other permits specified in the Findings of Fact are obtained, and the amendment is recorded in the land records of the municipality.

(D) Administrative amendments to a permit. A district commission may authorize a district coordinator to amend a permit without notice or hearing when an amendment is necessary solely

for record-keeping purposes and raises no likelihood of impacts under the criteria of the Act. Applications processed under this section shall be exempt from the distribution, posting and publication requirements of 10 V.S.A. § 6084 and sections (E) through (G) of Rule 10. In particular, administrative amendments are authorized to transfer a previously unrecorded permit to a new landowner, or to incorporate a revision in a certification of compliance when such revisions do not have any impact on the criteria of the Act. (Amended, effective January 2, 1996.)

Rule 35. Renewal of Permits

(A) Renewal required. For any permit which expires under Rule 32(B) of these rules, renewal shall be required for any extension of the permitted use beyond the expiration date. (Amended, effective January 2, 1996.)

(B) Renewal applications. Applications for permit renewals shall be on forms provided by the board, and shall be filed with the district commission having jurisdiction over the project. The district commission will expeditiously review a proposed renewal and determine whether it would involve significant impacts under the criteria and upon the values sought to be preserved by the Act. Factors taken into consideration will include: whether the project has been constructed, operated, and maintained in conformance with the terms and conditions of the permit; whether the extension also involves other amendments to the project; whether the project involves continuing operations

that are likely to have demonstrable impacts under the criteria of the Act beyond those considered during previous review of the project; and whether the project is one for which a strictly limited term of operation was anticipated in the original permit. (Amended, effective January 2, 1996.)

Rule 37. Certification of Compliance

Any person holding a permit may at any time petition the board or a district commission issuing the permit for a certification of compliance with the terms and conditions that may be imposed by the permit. Under usual circumstances, a person may petition for a certification upon completion of the construction of a development or division of land that completion or division has been accomplished in compliance with the permit.

Thereafter, if the permit establishes terms and conditions regarding operation and/or maintenance of a development or subdivision, the person holding the permit may from time to time petition the board or district commission for certification of compliance.

A certification shall be a matter of public record and shall estop any claim that the construction of a development or division of land or the operation and/or maintenance thereof do not comply with the provisions of the permit unless fraud or misrepresentation is shown. The notice and hearing requirements of the act shall be complied with when a petition for certificate of compliance is filed with the board or a district commission. (Amended, effective February 1, 1988.)